

Clarifications for BPAs

Question #1

What call number should regions use for each BPA access? For example, should we come up with our own, or has HQ come up with a numbering system that would identify the region, fiscal year, month and number of order placed that month. Ex. III-03-09-001.

Answer:

The call number used by HQ is the BPA number. The vendor will associate the DCN number with the BPA number to identify the order. Some regions are assigning new SA numbers as the call number in your region is doing this you must make sure you identify the BPA number as the contract number so the vendor and HQ can associate it to the proper BPA. Either method is acceptable.

Question #2

Have these BPAs been put into SPEDI by HQ? If so, how is the region to put in funding for its orders? Or, do you expect the regions to issue purchase orders that cite the BPA as a “contract” number, similar to a GSA order?

Answer:

The BPAs are not in SPEDI, only the Purchase Orders used to order equipment under the BPAs are entered into SPEDI. It is anticipated that authorized Regional Personnel will issue Purchase Orders, or use the Purchase Card to order equipment from the BPAs. The Purchase Request (funding document) come from the requiring activity (Program Office). There is no change from your standard procedure for getting/issuing PRs; you should use your standard funding procedures to get a funding PR for authorized Regional Personnel to use SPEDI or the Purchase Card to order equipment from the BPAs.

Question #3

I assume each region will be responsible for monitoring what it orders and the associated ceilings. Who will be handling and tracking the overall call sheet in HQ for the BPA as a whole? Should I forward a copy of the order to that individual?

Answer:

Regions may choose to track their purchases, however, HQ and the vendors will monitor the ceiling and track expenditures. Each BPA has a statement “SRRPOD-ERSC MUST BE NOTIFIED AS TO ITEMS AND QUANTITIES PURCHASED AGAINST THIS BPA BY AN AUTHORIZED PURCHASING PERSONNEL.” Section 4(b) of the BPA “Limitation of Funds:” requires the contractor to monitor the not to exceed amount and notify the Contracting Officer when 75% is expected. OAM HQ is tracking the overall expenditures on spreadsheets for each category, so it is critical we receive copies of your POs.

Question #4

Will there be an electronic process so we don't have problems associated with numerous paper trails?

Answer:

All BPAs and associated documents have been posted to the following website:
<http://www.epa.gov/oamsrpod/ersc/bpa/index.htm>.

Question #5

More importantly, has some sort of class JOFOC been processed for these CT BPAs since the Agency has made a determination that these are the manufacturers we shall use for consistency sake? FAR 13.303-5 states that the existence of a BPA does not justify purchasing from one source or avoiding small business set-asides. Or does the class JOFOC for terrorist acts that has already been issued apply since it does contain language in their about "defense from" nuclear, biological, chemical, radiological attack?

Answer:

All BPAs that have been placed were competed as full and open competition. HQ has awarded approximately 30 BPAs, 20 of those BPAs were awarded to small business. The salient characteristics were developed by the end users and RFQs were posted to the Government Point of Entry (GPE), quotes received and evaluated under FAR Parts 12, 13 and 15. Source Selection documentation have been prepared for all established BPAs to ensure "Best Value" for the Government. Therefore, a JOFOC was not needed.

Question #6

On the OF 347, we are marking block 8 delivery. I noticed on the examples we received from HQ, block 8 was marked as purchase. We plan to use delivery in this block is that okay?

Answer:

The term "delivery order" implies that there is central contract in place that the delivery order is placed against or under. Since BPAs are not contracts, a central contract does not exist. Each PO issued under the BPA is a contract. Based on this, OAM HQ recommends that the equipment ordered from the BPAs using SPEDI be processed as a purchase order (PO). Orders may be placed using the purchase card also.

Question #7

FAR 13.303-4 reflects certain clauses prescriptions which "should be used and included in the BPA" such as 22.605(a)(5) (Walsh Healy Public Contracts Act) which states that indefinite delivery contracts, including ...BPAs are subject to the Act unless it can be determined in advance that the aggregate amount of all orders estimated to be placed thereunder for 1 year after the effective date of the agreement will not exceed \$10,000. Was a determination made we can cite or was there a waiver we can cite?

Answer:

The BPAs were placed under FAR Part 12 - Commercial Items therefore Walsh Healy Public Contracts Act does not apply. See FAR Part 22.604-1(a).

Question #8

Will HQ be doing mods to add RTP as a place invoices can be submitted, or add language such as “as identified in each individual delivery order”? Or has it been decided HQ Finance will process all invoices for CT BPA orders?

Answer:

There are no plans to amend the BPAs to reflect RTP or any other finance office as payment centers. Discussions were held with HQ Financial Services Division prior to beginning the process of placing these equipment BPA and the determination was that all invoices would be submitted to HQ Financial Services. The BPAs as originally issued instruct the vendor to submit their invoices to the HQ Financial office. All POs should be forwarded to U.S. EPA, HQ Financial Services Division, Attn: David Robinson, 1200 Pennsylvania Ave., NW, Washington, DC, 20460, MC:2734R, Telephone (202) 565-2550 Fax (202) 565-2571. When preparing your PO the SFO number must be 99, even if your PR has a regional code, this allow HQ to make the payment. Before payment can be made the Program Office or recipient of the equipment must forward their receiving report to David Robinson at the above address.

Question #9

Is there a specified individual to who we are to submit copies of our executed deliver or purchase orders? Do you want a hard copy (which will include a signature) or will an electronic copy be sufficient?

Answer:

HQ should be provided with a signed copy (can be faxed). If you provide copies through the mail please sent to the Attention of Raoul Scott at U.S. EPA, 1200 Pennsylvania Ave., NW, Washington, DC 20460, MC:3805R or fax to 202-565-2558. If you scan your document it can be e-mailed to Raoul Scott at scott.raoul@epa.gov.

Question #10

After an order was placed with Centech (BPA B3-1134-YTSX) for chemical detector and accessories, the manufacturer, Proengin, sent a letter to our Point of Contact. Apparently, Proengin has a US office in Florida, but the form shows a French address for the company. The letter informed the point of contact that delivery would not be made until he filled out a form entitled “NON TRANSFER CERTIFICATE”. The form requires our certification (notarized) that the equipment will not be transferred (sold, delivered or lent) to any third party without the written permission of the French government. A few issues arise. First, this is a new term or condition which was not in the BPA and if delivery was conditioned on this, it should have been. Second, do we have any objection to this? However, there may be an impact down the road, when we want to dispose of the equipment. Also, should the CO sign it or the Program?

Answer

The equipment being purchased from Centech is the UC AP2Ce manufactured in France and considered by the French Government to be of such a sensitive nature that tracking has been mandated by them. The instrument they are using to track and receive confirmation of use is the "NON TRANSFER CERTIFICATE". Before this equipment can be shipped to the end user this certificate must be executed and returned to Proengin, the manufacturing agent. OAM Headquarters was not advised of this requirement by Centech at the time the BPA was placed and the requirement was brought to our attention only after orders had been placed and the regions began receiving the certificate request. In discussion with Centech, Proengin and OAM a clarification of the language was provided in a memorandum dated October 14, 2003. The Memo stated:

"In EPA's attempt to facilitate the "Non Transfer Certificate" we are seeking clarification on who is considered DPA personnel. After discussing the issue with Centech, it is understood that EPA contractors may be granted access/use of referenced equipment while performing Agency requirements. It is not the intent of EPA to provide the AP2Ce or accessory equipment to unauthorized individuals. However, in response to an incident it may be necessary that the EPA authorize contractors or subcontractors use of the equipment under the terms and conditions of the respective contract. Based on this, EPA contractors/subcontractors that are authorized to use the equipment identified herein, and are working within the terms of the "Non Transfer Certificate."

With this agreement in place EPA has no objections to signing the certificate. In respect to the disposal of the equipment in the future, EPA has requested guidance from Centech and Proengin as of date there has been no guidelines provided. Several of the certificates have been sent to the end user by Proengin and some have been signed and returned by the user, this is fine and provides the documentation Proengin needs. However to prevent delays in shipment of the needed equipment, OAM Headquarters has arranged for all future forms to be sent to OAM where we will sign and return the certificate. When this process is completed, your equipment should be shipped to the designated location.

Question 11:

In consideration of making the ordering process as simple as possible, it is recommend that the specific clauses HQ uses in each PO be identified in the BPA. This will ensure that Regional PO use the same clauses as HQ, thereby achieving consistency.

Answer:

HQ agrees and is in the process of amending all BPAs, via the website were they are posted, to include all clauses referenced in Purchase Orders processed by HQ.